

REPORT OF THE COMMITTEE ON PUBLIC SAFETY AND WELFARE

Voting Members:

Tommy Waters, Chair; Heidi Tsuneyoshi, Vice-Chair;
Carol Fukunaga, Joey Manahan, Ron Menor

Committee Meeting Held
October 24, 2019

Honorable Ikaika Anderson
Interim Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Public Safety and Welfare, to which was referred Bill 40 (2019) entitled:

"A BILL FOR AN ORDINANCE RELATING TO PLASTIC,"

which passed second reading and a public hearing held at the September 4, 2019 Council meeting, reports as follows:

The purpose of the Bill is to address the provision of certain single-use plastic goods and plastic bags.

Chief Resilience Officer and Executive Director Joshua Stanbro from the Mayor's Office of Climate Change, Sustainability and Resiliency testified that the Administration supports the Bill. Director Stanbro further indicated support for Councilmember Manahan's hand-carried CD1 (OCS2019-1157/10/24/2019 1:59 PM).

Director Lori Kahikina from the Department of Environmental Services ("ENV") also provided responses to questions. In response to a question from Councilmember Fukunaga, Director Kahikina indicated that ENV would promulgate rules, particularly in relation to the lack of a reasonable alternative.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
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ADOPTED ON _____

COMMITTEE REPORT NO. 341

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At your Committee's meeting on October 24, 2019, the following organizations testified in support of the Bill:

Matthew Hong, Banan LLC
John Elkjer, Sustainable Island Products
Jaffer Dakroub, the Plastics Project/Promise to our Keiki
Trisha "Mama" T Gonsalves, Umeke Market
Ari Patz, Styrophobia
Natalie Wohner, Surfrider Foundation Ocean Friendly Restaurant Program
Lori Mallini, Protea Zero Waste Store
Suzanne Frazer, Beach Environmental Awareness Campaign Hawaii
Nicole Chatterson, Zero Waste Oahu
Jennifer Milholen, Kokua Hawaii Foundation
Stuart Coleman, Surfrider Foundation
Doora Shin, Surfrider Foundation
Tessa Makamae Kaikamahine Martines-Melim, Surfrider Foundation Maui
Michelle Ching, Farm to Barn Café & Juicery and North Shore Board of
Directors for Hawaii Farmers Union
David Mulinix, Our Revolution Hawaii
Rylee Brooke Kamahele, The Love is a Verb Foundation

18 individuals also testified in support of the Bill:

Kathi Saks
Denise Boisvert
Brendon Thompson
Novell Goodman
Donavan Albano

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Paunani Woo
Dyson Chee
Emma Ishihara
Wilson Tran
Neelanthi Vadivel
Alana Wilson
Dean Otsuki
Karen Abe
Christina Reinhofer
Niana K. Kilbey
Matthew Geyer
Candace Tomasu
Sheila Buyukacar

The following organizations testified in opposition to the Bill:

Alexis Chapman, Hawaii Food Industry Association
Adrian Hong, Island Plastic Bags, Inc.
Gary Yoshioka, Diamond Bakery Co., Ltd.
Jimmy Chan, Hawaiian Chip Company
Michael Miller, Tiki Grill & Bar
Joy Gold, KYD Inc. dba K Yamada Distributors
Neil Ishida, ABC Stores
Dan Kouchi, Chamber of Commerce Hawaii

One individual, Kevin McDonald, testified in opposition to the Bill.

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Representative Chris Lee from the Hawaii State Legislature provided comment on the Bill.

Your Committee received written testimony in support of the Bill from the following organizations:

Action for Nature
Anuenue Behavior Analysts
Banan LLC
Big Island Brewhaus
Captain Planet Foundation
Coffee Shop 831
DSDesigns
Fleetwood's on Front St.
Grace in Growlers
Hawaii Food Industry Association
The Kahala Hotel & Resort
Lanikai Brewing Company
Mochi Aulelei
Nalu Health Bar & Café
Sprout Sandwich Shop
Sustainable Island Products
Vital Inc.
Wipeout Crew
World Centric
World Surf League
Aloha Immigration
Hawaii Eco Straws

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Sail Hawaii International, LLC
Free Access Coalition
Kailua Beach Adventures
Hawai'i Association for Behavior Analysis
Aloha Harvest
The Plastics Project/Promise to our Keiki
Kailua Acupuncture Clinic
Haha'ione Elementary's Green and Blue Crew
Protea Zero Waste Store
Beach Environmental Awareness Campaign Hawai'i
Pure Kauai
Blondie's Food Truck
Plastic free Hawaii
Aloha Salads
Zu Travels
Haha'ione elementary Green and Blue Crew
Zero Waste O'ahu
Sustainable Coastlines Hawai'i
Hawaii Appleseed Center for Law & Economic Justice
Pure Kauai
Surfrider O'ahu
Human Environmental Impacts Committee of the Environmental Caucus
of the Democratic Party of Hawai'i
Zero Waste
Ainacology LLC
Kamoa's Kitchen Mea'ai & Mo'olelo
Maui Ocean Center
Art Café Hemingway

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Kokua Hawaii Foundation
The Growing Keiki
Healthcare Association of Hawaii
Rainbow World
Surfrider Foundation Hawaii Chapters
Hawaii Eco Straws
Our Revolution Hawaii
Surfrider Foundation Oahu
Surfrider Foundation Maui
Hawaii Public Health Institute
Pure Kauai
Farm To Barn Cafe & Juicery
Coffee Shop 831

The following organizations provided written testimony in opposition to the Bill:

Diamond Bakery Co., Ltd.
FarmLovers Markets
Gyotaku Restaurant
Hawaii Food Industry Association
Hawaii Restaurant Association
Island Plastic Bags, Inc.
Wicked Hi Slush
Tamura's Market
Seven-Eleven Hawaii, Inc.
Meadow Gold Dairies
Plastics Industry Association
Waikiki Brewing Company

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Retail Merchants of Hawaii
Hawaii Cattleman's Council
Tiki's Grill & Bar
Hawaiian Chip Company
KYD, Inc. dba K. Yamada Distributors
Diamondhead Seafood Co., Halms Enterprise, Keoki's Lau Lau Co.
ABC Stores
Hawaii Packaging
Macdonald & Porter Inc.
Foodies Services, LLC
Rengo Packaging Inc.
ABC Stores
Pine Isle Market, Ltd.
Tekni-Plex
Chamber of Commerce Hawaii
Ted's Bakery, Inc.
Hawaii Food Manufacturer's Association

The Hawaii Food Industry Association and Kalihi Business Association provided written comment on the Bill.

Written testimony in support of the Bill was received from 598 individuals. Written testimony in opposition to the Bill was received from nine individuals, and four individuals submitted comments on the Bill.

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At your Committee's meeting on October 24, 2019, Committee members made the following comments and expressed the following concerns:

Council Chair Emeritus Menor noted that it is helpful that parties can submit requests to ENV for exemptions prior to the effective date, as that would provide time to make any necessary amendments to the provision and also allow for businesses to properly plan for implementation of the Bill.

Councilmember Manahan clarified that the intent of the Bill was to apply not just to the food industry but to all businesses. Councilmember Manahan further recognized that there are provisions of the Bill that allow for businesses to seek exemptions if they are to experience undue hardship.

Committee Chair Waters recognized the compelling testimony in support of the Bill and further noted that Councilmember Manahan worked extremely hard to provide exemptions for businesses that have no other means to package their food.

Your Committee considered and approved Councilmember Manahan's proposed handcarried CD1 version that makes the following amendments:

- A. In SECTION 1 of the bill ("Purpose and Findings"), revises the general comments and findings of the Council.
- B. In SECTION 2 of the bill, adds a new definition of "Plastic" to ROH Section 9-9.1 ("Definitions") to read as follows:

"Plastic" means any material made of fossil fuel-derived or petrochemical polymeric compounds and additives that can be shaped by flow.

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- C. In SECTION 2 of the bill, amends the definitions of "Plastic checkout bag" and "Plastic film bag" in ROH Section 9-9.1 ("Definitions") to limit existing exclusions to:
- (A) Handle-less plastic bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;
 - (B) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness;
 - (C) Newspaper bags for home newspaper delivery;
 - (D) Laundry, dry cleaning, or garment bags
 - (E) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;
 - (F) Bags used to contain live animals, such as fish or insects sold in pet stores; and
 - (G) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer.

Exclusions (A) and (D) have been modified from the "as introduced" version.

- D. In SECTION 4 of the bill, adds new definitions of "Business," "Expanded polystyrene," "Expanded polystyrene food service product," and "Plastic," amends the definition of "Plastic service ware," "Single-use," and "Utensils," and removes the definitions of "Chlorofluorocarbons" or "CFCs," and "Polystyrene foam container" in ROH Section 41-27.1 ("Definitions").

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- E. In SECTION 5 of the bill, amends ROH Section 41-27.2 ("Ban on use of polystyrene foam containers") to read as follows:

**"Sec. 41-27.2 [Ban] Restriction on [use of polystyrene foam containers.]
 non-compliant food service ware.**

- (a) ~~[Except if]~~ Unless exempted under Section 41-27.3, ~~[from January 1, 1990,]~~ no food vendor ~~or business~~ shall sell or serve prepared food or beverages in any expanded polystyrene ~~[foam container]~~ food service product. ~~[which is manufactured with the use of or contains chlorofluorocarbons. The department may require a food vendor, supplier, or distributor to furnish a written statement from the manufacturer or supplier of the container used by the food vendor, indicating that use of the container is not prohibited.]~~
- (b) Unless exempted under Section 41-27.3, no food vendor or business shall sell or provide single-use plastic service ware to customers.
- (c) ~~[Except if]~~ Unless exempted under Section 41-27.3, ~~[from January 1, 1990,]~~ no food packager shall package meat, eggs, bakery products, or other food in any expanded polystyrene ~~[foam container]~~ food service product. ~~[which is manufactured with the use of or contains chlorofluorocarbons. The department may require the manufacturer or supplier of the container used by the food packager to furnish a written statement from the manufacturer of the packaging, indicating that use of the container is not prohibited.]~~"

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F. In SECTION 6 of the bill, amends ROH Section 41-27.3 ("Exemptions") to read as follows:

"Sec. 41-27.3 Exemptions.

- (a) ~~[The department may exempt a food vendor or food packager from compliance with the prohibition of Section 41-27.2 until December 31, 1990.]~~ The department may grant an exemption from compliance with the prohibitions of Section 41-27.2 upon application and ~~[a showing by the applicant]~~ the provision of sufficient evidence that compliance with the prohibition would cause undue hardship. "Undue hardship" ~~[shall]~~ will be construed to include, but not be limited to[
(a) ~~Situations],~~ situations where there are no acceptable alternatives to packaging with expanded polystyrene ~~[foam containers]~~ food service products or providing single-use plastic service ware to customers, for reasons ~~[which]~~ that are unique to the applicant[
(b) ~~Situations where compliance with the prohibition would deprive a person of a legally protected right or where the product containing GFCs was purchased prior to the effective date of the ordinance codified in this article].~~
- (b) Disposable flexible plastic drinking straws may be provided, upon request, to customers for whom flexible non-fossil-fuel-based straws are unsuitable due to medical or physical conditions. Otherwise, straws must be fossil-fuel free or designed to be reusable.

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(c) Prepackaged food products that are outside of a business' sphere of control, such as children's juice boxes packaged and sold with single-use plastic straws, soup or noodles packaged with expanded polystyrene that has been filled and sealed prior to receipt by the business, and single-use plastic condiments packaging, are exempt from compliance with the prohibitions of Section 41-27.2."

G. Amends the bill's effective date to January 1, 2021.

H. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee on Public Safety and Welfare is in accord with the intent and purpose of Bill 40 (2019), as amended herein, and recommends that it pass Third Reading in the form attached hereto as Bill 40 (2019), CD1. (Ayes: Manahan, Menor, Waters -- 3; Noes: None; Excused: Fukunaga, Tsuneyoshi -2.)

Respectfully submitted,



Committee Chair

Bill 40 rereferred to the Committee on Public Safety & Welfare (CC-353, CC-354).
Committee Report No. 341 not adopted and superseded by Committee Report No. 389.

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COMMITTEE REPORT NO. 341



A BILL FOR AN ORDINANCE

RELATING TO PLASTIC.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose and Findings. The purpose of this ordinance is to address the provision of certain single-use plastic goods and plastic bags.

The impact of the world's increasing waste stream is unsustainable and detrimental to the future of Hawaii's economy and the health and safety of its people. Plastics entering the environment have a demonstrable adverse effect on the health of the people of Honolulu, as well as the environmental integrity of our islands. Single-use plastic service ware and packaging are major contributors to street and beach litter, ocean pollution, harm to marine and other wildlife, and greenhouse gas emissions, which directly contribute to the global climate crisis.

A significant portion of marine debris -- estimated to be 80 percent -- originates on land, primarily as escaped refuse and litter, much of it plastic, in urban runoff. These land-based plastics degrade into pieces and particles of all sizes, including microplastics, and are present in the world's oceans at all trophic levels. Among other hazards, plastic debris attract and concentrate ambient pollutants like heavy metals and persistent organic pollutants in seawater and freshwater, which can transfer to fish, and other seafood, that is eventually caught and sold for human consumption.

The City and County of Honolulu ("City") is a recognized leader in developing responsible waste management policies and programs. In order to protect health, life, and property and preserve the order and security of the City and its inhabitants, ordinances have been enacted to regulate the use of plastic and non-recyclable paper bags provided by businesses to customers. In continuing to strive for responsible waste management policies and programs, the City must address the provision of single-use plastic goods. In regards to single-use items not governed by law, businesses are encouraged to only provide single-use items to customers upon request.

Reduction of the amount of non-degradable and non-recyclable waste that enters the waste stream is consistent with the City's proposed Integrated Solid Waste Management Plan, which aims to reduce per capita waste generation by 25 percent by 2030 and to reduce carbon emissions from the waste stream by substantially reducing or eliminating carbon-based single-use plastics and polystyrene by 2030. These measures are also consistent with the 2030 solid waste reduction goals set forth by the State-level *Aloha+ Challenge*, to which Honolulu is a signatory, which include to "support changes in design, material use, and manufacturing that reduce waste and toxicity" and to "significantly reduce the annual generation of solid waste."



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Through this measure, it is the Council's intent to protect human safety and welfare, and to improve environmental quality on the island, in the neighboring marine environment, and globally.

SECTION 2. Section 9-9.1, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended as follows:

1. By adding a new definition of "Plastic" to read as follows:

"Plastic" means any material made of fossil fuel-derived or petrochemical polymeric compounds and additives that can be shaped by flow."

2. By amending the definitions of "Plastic checkout bag" and "Plastic film bag" to read as follows:

"Plastic checkout bag":

- (1) Means a carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and is made from plastic and not specifically designed and manufactured for ~~[multiple]~~ long-term re-use;
- (2) This term does not include:
- (A) [Bags] Handle-less plastic bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;
 - (B) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness;
 - (C) ~~[Bags used to protect or transport prepared foods, beverages, or bakery goods;~~
 - ~~(D) Bags provided by pharmacists to contain prescription medications;~~
 - ~~(E)] Newspaper bags for home newspaper delivery;~~
 - ~~[(F) Door hanger bags;~~
 - ~~(G)](D) Laundry, dry cleaning, or garment bags [including bags provided by hotels to guests to contain wet or dirty clothing];~~



A BILL FOR AN ORDINANCE

~~[(H)]~~(E) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

~~[(H)]~~(F) Bags used to contain live animals, such as fish or insects sold in pet stores; or

~~[(H)]~~(G) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer."

"Plastic film bag":

(1) Means a plastic bag made out of thin flexible sheets of plastic with a thickness of 10 mils or less;

(2) This term does not include:

(A) ~~[Bags]~~ Handle-less plastic bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;

(B) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness;

(C) ~~[Bags used to protect or transport prepared foods, beverages, or bakery goods;~~

~~(D) — Bags provided by pharmacists to contain prescription medications;~~

~~(E)]~~ Newspaper bags for home newspaper delivery;

~~[(F)] — Door-hanger bags;~~

~~(G)]~~(D) Laundry, dry cleaning, or garment bags ~~[, including bags provided by hotels to guests to contain wet or dirty clothing];~~

~~[(H)]~~(E) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

~~[(H)]~~(F) Bags used to contain live animals, such as fish or insects sold in pet stores; or

~~[(H)]~~(G) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level;



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provided that this exemption shall be limited to one bag per customer."

SECTION 3. The title of Chapter 41, Article 27, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 27. [~~Polystyrene Foam Containers~~] Food Service Ware"

SECTION 4. Section 41-27.1, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended as follows:

1. By adding new definitions of "Business," "Expanded polystyrene," "Expanded polystyrene food service product," "Plastic," "Plastic service ware," "Single-use," and "Utensils" to read as follows:

"Business" means the same as defined in Section 9-9.1.

"Expanded polystyrene" means blown polystyrene and expanded and extruded foams which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expanded bead polystyrene) injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

"Expanded polystyrene food service product" means food containers, plates, "clamshells," hot and cold beverage cups, meat and vegetable trays, egg cartons, and other products, made of expanded polystyrene and used for selling or providing food for consumption on or off the premises of a business.

"Plastic" means the same as defined in Section 9-9.1.

"Plastic service ware" means containers, lids, plates, "clamshells," serving trays, meat and vegetable trays, hot and cold beverage cups, stirrers, and utensils including forks, spoons, sporks, knives, and straws used as part of food or beverage service, that contain plastic, but does not mean bottles that contain plastic.

"Single-use" means designed to be used once, then discarded, and not designed for sanitizing and long-term re-use.

"Utensils" are single-use plastic implements intended to assist in the consumption of food or drink."



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2. By amending the definition of "Department" to read as follows:

"Department" means the department of ~~[public works.]~~ environmental services."

3. By removing the definitions of "Chlorofluorocarbons" or "CFCs" and "Polystyrene foam container".

~~"Chlorofluorocarbons" or "CFCs" mean the family of substances containing carbon, fluorine and chlorine. The term includes the following compounds: CFC 11, CFC 12, CFC 113, CFC 114 and CFC 115.]~~

~~"Polystyrene foam container" means a container which is manufactured with the use of or contains chlorofluorocarbons.]"~~

SECTION 5. Section 41-27.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 41-27.2 [Ban] Restriction on [use of polystyrene foam containers.] non-compliant food service ware.

- (a) ~~[Except if] Unless~~ exempted under Section 41-27.3, ~~[from January 1, 1990,]~~ no food vendor or business shall sell or serve prepared food or beverages in any expanded polystyrene [foam container] food service product. ~~[which is manufactured with the use of or contains chlorofluorocarbons. The department may require a food vendor, supplier, or distributor to furnish a written statement from the manufacturer or supplier of the container used by the food vendor, indicating that use of the container is not prohibited.]~~
- (b) Unless exempted under Section 41-27.3, no food vendor or business shall sell or provide single-use plastic service ware to customers.
- (c) ~~[Except if] Unless~~ exempted under Section 41-27.3, ~~[from January 1, 1990,]~~ no food packager shall package meat, eggs, bakery products, or other food in any expanded polystyrene [foam container] food service product. ~~[which is manufactured with the use of or contains chlorofluorocarbons. The department may require the manufacturer or supplier of the container used by the food packager to furnish a written statement from the manufacturer of the packaging, indicating that use of the container is not prohibited.]"~~



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SECTION 6. Section 41-27.3, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 41-27.3 Exemptions.

- (a) ~~[The department may exempt a food vendor or food packager from compliance with the prohibition of Section 41-27.2 until December 31, 1990.]~~ The department may grant an exemption from compliance with the prohibitions of Section 41-27.2 upon application and [a showing by the applicant] the provision of sufficient evidence that compliance with the prohibition would cause undue hardship. "Undue hardship" ~~[shall]~~ will be construed to include, but not be limited to[; or
- (a) ~~Situations], situations~~ where there are no acceptable alternatives to packaging with expanded polystyrene [foam containers] food service products or providing single-use plastic service ware to customers, for reasons ~~[which] that~~ are unique to the applicant[; or
- (b) ~~Situations where compliance with the prohibition would deprive a person of a legally protected right or where the product containing CFCs was purchased prior to the effective date of the ordinance codified in this article].~~
- (b) Disposable flexible plastic drinking straws may be provided, upon request, to customers for whom flexible non-fossil-fuel-based straws are unsuitable due to medical or physical conditions. Otherwise, straws must be fossil-fuel free or designed to be reusable.
- (c) Prepackaged food products that are outside of a business' sphere of control, such as children's juice boxes packaged and sold with single-use plastic straws, soup or noodles packaged with expanded polystyrene that has been filled and sealed prior to receipt by the business, and single-use plastic condiments packaging, are exempt from compliance with the prohibitions of Section 41-27.2."

SECTION 7. Section 41-27.5, Revised Ordinances of Honolulu 1990 ("Enforcement"), is amended by amending subsection (c) to read as follows:

- "(c) Enforcement and administration of this article ~~[shall be]~~ are under the jurisdiction of the department ~~[of public works.] of environmental services.~~ Enforcement of this article ~~[shall also be]~~ is also under the jurisdiction of the Honolulu police department."



CITY COUNCIL

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ORDINANCE _____

BILL 40 (2019), CD1

A BILL FOR AN ORDINANCE

SECTION 8. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



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ORDINANCE _____

BILL **40 (2019), CD1**

A BILL FOR AN ORDINANCE

SECTION 9. This ordinance takes effect on January 1, 2021.

INTRODUCED BY:

Joey Manahan

DATE OF INTRODUCTION:

July 9, 2019
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu